

## Message Text

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FM SECSTATE WASHDC

TO AMEMBASSY MADRID

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E.O. 11652: GDS

TAGS: ETRD, SP, US

SUBJECT: FOOTWEAR AND BOTTLED OLIVES: COUNTERVAILING DUTY  
INQUIRY

REF: MADRID 7583

1. AS EMBASSY IS AWARE, TREASURY HAS MADE REPEATED EFFORTS INCLUDING VISIT BY CUSTOMS TEAM TO MADRID IN NOVEMBER 1973, TO OBTAIN DETAILED DATA FROM SPANISH OFFICIALS REGARDING VARIOUS SUBSIDIES, ALLEGED TO EXIST IN FOOTWEAR AND BOTTLED OLIVE COUNTERVAILING DUTY COMPLAINTS SUBMITTED TO TREASURY ABOUT ONE YEAR AGO. CONSIDERABLE INFORMATION WAS FURNISHED WITH THESE COMPLAINTS TO BUTTRESS CONCLUSION THAT BOUNTIES OR GRANTS WERE BEING PAID ON SPANISH EXPORTS TO U.S. WITHIN MEANING OF COUNTERVAILING DUTY LAW.

2. KEY ISSUE FOR TREASURY IN DETERMINING WHETHER BOUNTIES  
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OR GRANTS EXIST RELATES TO REBATES OF "DESGRAVACION FISCAL

A LA EXPORTACION". IN DETERMINING APPLICABILITY OF COUNTERVAILING DUTY STATUTE TO REFUNDS OF INDIRECT TAXES, TREASURY CONSIDERS 2 BASIC TESTS: (1) WHETHER REFUND EXCEEDS AMOUNT OF INDIRECT TAX ASSESSED BY SPANISH GOVERNMENT; (2) WHETHER REBATES OF INDIRECT TAXES UPON EXPORTATION ARE DIRECTLY RELATED TO THE PRODUCT BEING EXPORTED OR ITS COMPONENTS. IN ORDER TO ARRIVE AT THESE CONCLUSIONS, TREASURY REQUIRES PRECISE DATA TO DETERMINE POSSIBLE APPLICABILITY OF COUNTERVAILING DUTY LAW TO SITUATION AT

HAND.

3. CUSTOMS TEAM MET IN NOVEMBER WITH RICARDO BAPTISTA BURGOS REGARDING THE "DESCRAVACION FISCAL". BAPTISTA WAS REQUESTED IN THAT MEETING TO SUPPLY TO TREASURY, IN BEHALF OF THE SPANISH GOVERNMENT, DETAILED INFORMATION CONCERNING THE METHOD IN WHICH AMOUNT OF REBATES ON FOOTWEAR AND BOTTLED OLIVE EXPORTS TO THE UNITED STATES WAS ESTABLISHED. BAPTISTA INDICATED THAT STUDY, WHICH RESULTED IN RESPECTIVE REFUND AMOUNTS, HAD BEEN CONDUCTED BY SPANISH AUTHORITIES IN 1964, AND THAT COPY OF THIS STUDY COULD BE PROVIDED CUSTOMS OFFICIALS BEFORE THEIR RETURN TO WASHINGTON. INSTEAD THE CUSTOMS REPRESENTATIVES WERE FURNISHED A TWO-PARAGRAPH STATEMENT INDICATING THAT THE REFUND CALCULATION IS ESTABLISHED BY A TWO-STAGE PROCESS. NO DETAILS WERE SUPPLIED ON HOW REBATE DETERMINATIONS FOR FOOTWEAR AND BOTTLED OLIVES WERE CALCULATED. REFTEL AMPLIFIED ORIGINAL STATEMENT BY INDICATING THAT SEVERAL DIFFERENT TAXES ARE INCLUDED IN CALCULATION.

4. SPANISH SHOE AND BOTTLED OLIVE IMPORTS HAVE RESULTED IN CONSIDERABLE DOMESTIC CRITICISM OF TREASURY FOR ALLEGED FAILURE TO ENFORCE COUNTERVAILING DUTY LAW EFFECTIVELY. SUCH CRITICISM COMES AT AN INOPPORTUNE TIME SINCE SENATE

FINANCE COMMITTEE WILL SOON TAKE UP TRADE BILL, WHICH CALLS FOR SIGNIFICANT CHANGES IN AND TIGHTENING OF COUNTERVAILING DUTY STATUTE. FAILURE OF SPANISH AUTHORITIES TO PROVIDE DETAILED INFORMATION NECESSARY TO MAKE AN ACCURATE ASSESSMENT OF PRACTICES ALLEGED IN COMPLAINTS-- LIMITED OFFICIAL USE

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THIS NOTWITHSTANDING REPEATED EFFORTS BY TREASURY TO OBTAIN THIS INFORMATION FROM SPANISH GOVERNMENT--COULD ENCOURAGE SENATE FINANCE COMMITTEE TO TIGHTEN EVEN FURTHER COUNTERVAILING DUTY PROVISIONS OF TRADE BILL. THUS, IT IS IN OUR MUTUAL INTEREST THAT SPANISH GOVERNMENT FULLY COOPERATE IN PROVIDING NECESSARY INFORMATION REGARDING SUBSIDY SYSTEM.

5. IF A FOREIGN GOVERNMENT DECLINES TO COOPERATE IN FURNISHING INFORMATION NECESSARY TO REACH DECISION IN COUNTERVAILING DUTY CASES, TREASURY HAS AUTHORITY UNDER STATUTE TO UTILIZE "BEST INFORMATION AVAILABLE." NORMALLY, THIS WOULD MEAN THAT DECISION WOULD BE BASED ESSENTIALLY ON INFORMATION PRESENTED BY COMPLAINANT. TREASURY WOULD BE RELUCTANT TO PROCEED ALONG THESE LINES IN ABSENCE OF COMPELLING REASONS. HOWEVER, IT WOULD PROBABLY HAVE NO ALTERNATIVE UNLESS SPANISH GOVERNMENT IS PREPARED TO COOPERATE IN FURNISHING FULL INFORMATION REQUIRED, AND IN DOING SO IN A TIMELY FASHION.

6. IN VIEW OF ABOVE AND CONSIDERING POSSIBLY SERIOUS CONSEQUENCES TO OUR BILATERAL ECONOMIC RELATIONS, EMBASSY IS REQUESTED TO CONVEY TO APPROPRIATE SPANISH OFFICIALS:

(A) TREASURY REQUIRES COPIES OF INDIVIDUAL STUDIES ON BOTTLED OLIVES AND FOOTWEAR THAT LEAD TO 12 PERCENT AND 10 PERCENT REFUNDS ON EXPORTS RESPECTIVELY, WHICH WAS REFERRED TO BY BAPTISTA.

(B) IF NOT INCLUDED IN STUDIES DESCRIBED ABOVE, FOLLOWING INFORMATION ALSO NEEDED:

(1) NAMES, DESCRIPTIONS, PERCENTAGE AMOUNTS AND EXACT COVERAGE OF ALL TAXES MAKING UP THE "DESGRAVACION FISCAL".

(2) THE PERCENTAGE OF EACH TAX OR CHARGE INCURRED ON BOTTLED OLIVES AND FOOTWEAR DURING CYCLE OF PRODUCTION, MANUFACTURE AND SALE AT ALL LEVELS AND THE PRECISE BASIS FOR ALL TAX ESTIMATES. WHERE THERE IS A FISCAL CHARGE ON THE PURCHASE OF MACHINERY AND LIMITED OFFICIAL USE

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EQUIPMENT, FOR EXAMPLE, EXPLAIN THE FUNCTION OF THE MACHINERY IN ITS RELATION TO THE FINAL PRODUCT (SHOES OR BOTTLED OLIVES).

(3) COPIES OF THE PERTINENT PARTS OF THE SPANISH ECONOMY INPUT-OUTPUT TABLES RELATING TO BOTTLED OLIVES AND FOOTWEAR.

7. IN VIEW EXPECTATION THAT TREASURY WILL HAVE TO TESTIFY BEFORE SENATE FINANCE COMMITTEE ON TRADE BILL, INFORMATION REQUESTED IS NEEDED IN WASHINGTON NO LATER THAN FEBRUARY 18.

8. IN LIGHT OF POSSIBLE IMPLICATIONS FOR SPAIN'S TWO LEADING EXPORTS TO U.S., EMBASSY MAY WISH DISCUSS THIS

PROBLEM WITH POLICY LEVEL OFFICIALS IN COMMERCE MINISTRY  
AND POSSIBLY MFA, IN ADDITION TO FINANCE MINISTRY. RUSH

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## Message Attributes

**Automatic Decaptioning:** X  
**Capture Date:** 01 JAN 1994  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** FOOTWEAR, EXPORTS, CUSTOMS DUTIES, COUNTERVAILING DUTIES, TRADE VISITS, OLIVES  
**Control Number:** n/a  
**Copy:** SINGLE  
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**Decaption Date:** 01 JAN 1960  
**Decaption Note:**  
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